

**SANDY CITY SPECIFICATIONS AND STANDARD DETAILS
GENERAL CONDITIONS - DEVELOPMENT**

PART 1.00 GENERAL TERMS

1.01 INTRODUCTION AND DEFINITIONS

- A. Introduction: The following Sandy City Specifications and Standard Details: General Conditions-Development, are standards governing development of subdivisions of land, construction of public works improvements within Sandy City (City), including, but not limited to, the construction and installation of roads, streets, curbs, gutters, sidewalks, drainage systems, street lighting systems, water systems and landscaping applicable to contractors which contract with the City, and those who perform such work by contract with others. In extraordinary circumstances alternative standards may be allowed, where justified, upon written approval in the reasonable discretion of the Sandy City Engineer.
- B. Definitions: In the interpretation and construction of these Specifications and the Contract, or in any documents or instruments dealing with the construction operations governed by these Specifications, the following words, terms and abbreviations, or pronouns in place of them shall each be construed as defined below:
1. ACCEPTABLE ALTERNATE: In order to establish a basis of quality for items in the Work, certain processes, types of machinery and equipment, brands, or kind of material may be mentioned on the Approval Plans by designating a manufacturer by name and referring to his brand or model numbers. Such mention is not intended to exclude other Materials. If the Developer desires to use other Materials as equal or superior thereto, he shall secure written approval by the Engineer before entering an order therefor. Wherever in the Specifications a manufacturer's name, brand or model is mentioned, it is to be understood that the phrase "acceptable alternate" is assumed to follow thereafter whether or not it does in fact, provided that any such alternate product is first approved in writing by the Engineer.
 2. AGREEMENT: The duly executed written agreement between City and the Developer covering the performance of the Work and the furnishing of labor, material, tools and equipment in the construction of the Work. The Agreement shall include those documents specifically referred to in the signed document between the parties, and shall include, unless the context clearly indicates otherwise, the Sandy City Specifications, Approved Plans and Specifications, Special Conditions, Bonds and other security, Public Improvement Agreement, also any and all supplemental agreements or change orders.
 3. APPROVED PLANS: The final construction drawings, plan, profiles, typical cross-sections, grading, drainage and utility plans, specifications and materials, and supplemental drawings, water letter, or reproductions thereof, approved by the Engineer, which show the location, character, dimensions and details of work to be performed. All such documents are to be considered as a part of the plans whether attached to the Specifications or separate therefrom.

4. AS-BUILT DRAWINGS: Drawings which show the Project as actually constructed, and which include any and all changes made to the construction plans before and during construction.
5. BOND: The written instrument by which a surety is responsible for the Developer's acts in the execution of the contract, and the submission of bonds required therein, or which is bound with and for the Developer or the Developer's contractor to insure performance of the Agreement, the payment of all obligations pertaining to the Work, and the fulfillment of such other conditions as may be specified or required by law or agreement.
6. CHANGE ORDER: A document which is signed by authorized representatives of the Developer and the City and which authorizes an addition, deletion or revision in the Work, issued on or after the date of the Agreement. There shall be no payment by the City to Developer for any such change order.
7. CITY INSPECTOR: The authorized representative of the City or Engineer assigned to make detailed inspections of the Work performed, or of materials furnished by the Developer.
8. CITY/OWNER: Wherever, in the Agreement the word "City" or "Owner" appears, it shall be interpreted to mean "Sandy City", unless otherwise denoted.
9. CITY TRANSPORTATION ENGINEER: It is the general duty of the City Transportation Engineer to determine the installation and proper timing and maintenance of traffic-control devices, to conduct engineering analyses of traffic accidents and to devise remedial measures, to conduct engineering investigations of traffic conditions and to cooperate with other city officials in the development of ways and means to improve traffic conditions, and to carry out the additional powers and duties imposed by ordinances of this city and as directed by the City Council.
10. CONSULTING ENGINEER: This term shall mean a licensed engineer or an authorized member of a licensed engineering firm retained by the Developer for design, construction engineering, or inspection of the Work.
11. CONTAMINATION. The intentional or negligent placement or release upon property of Hazardous Materials.
12. CULVERT: An enclosed drainage structure extending across and beneath a highway, street, driveway, alley or railroad and not a part of the roadway surface which provides a passage for water or traffic.
13. DAYS: Unless otherwise designated, days as used in the Specifications will be understood to mean calendar days including weekends and holidays.
14. DEVELOPER: The Developer is the individual, person, or organization responsible for doing the Work. The Developer is further defined as the individual, firm, co-partnership or corporation, and his, their, or its heirs, executors, administrators, successors and assigns, or the lawful agent of any such individual firm, partnership, covenant or corporation, or his, their, or its surety under the Agreement bond, constitutes one of the principals to the Agreement and undertaking to perform the Work herein specified.

Where any pronoun is used as referring to the word "Developer" it shall mean the Developer as defined above.

15. DIRECTOR OF PUBLIC UTILITIES: The appointed Sandy City official in direct charge of public utility operations in Sandy City.
16. DIRECTOR OF PUBLIC WORKS: The appointed Sandy City official in direct charge of facilities in the Public Way in Sandy City.
17. DISTRICTS: An area or region defined by various utility companies and their limits of service. See Appendix "B" for a partial listing of districts.
18. DISTRICT ENGINEER: The engineer, including authorized assistants, who represents a utility district.
19. DISTRICT INSPECTOR: The authorized agent of the District or District Engineer assigned to make detailed inspections of any or all portions of the utility construction.
20. DRAWINGS: The drawings, profiles section and details, or exact reproductions thereof, approved by the Engineer, which show the location, character, dimensions and details of the Work to be done.
21. EMERGENCY: Any unforeseen circumstance or occurrence for which adequate preparations could not reasonably have been made, the occurrence of which constitutes a clear and immediate danger to persons and/or property, or which causes interruption of utility services, or any act of God, war, insurrection, invasion, tumult, riot, or public disaster, or imminent danger of any of these, civil commotion, conflagration, or other similar occurrence resulting in a clear and immediate danger to persons and/or property.
22. ENGINEER: The City Engineer, or his or her representative.
23. HAZARDOUS MATERIALS. (a) Any substances defined, regulated or listed (directly or by reference) as "hazardous substances," "hazardous materials," "hazardous wastes," "toxic waste," "pollutant," "contaminant" or "toxic substances" or similarly identified as hazardous to human health or the environment, in or pursuant to any of the following statutes: (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §9601 et seq. ("CERCLA"); (ii) the Hazardous Materials Transportation Act, 49 U.S.C. §1802, et seq.; (iii) the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq.; (iv) the Clean Water Act, 33 U.S.C. §1251 et seq.; (v) the Clean Air Act, 42 U.S.C. §7401 et seq.; (vi) the Toxic Substances Control Act, 15 U.S.C. §2601 et. seq.; (vii) the Utah Air Conservation Act, U.C.A. §26-13-1 et. seq.; (viii) the Utah Water Pollution Control Act, U.C.A. §26-11-1 et. seq.; (ix) the Utah Safe Drinking Water Act, U.C.A. §26-12-1 et. seq.; (x) the Utah Solid and Hazardous Waste Act, U.C.A. §26-14-1 et. seq.; (xi) the Utah Hazardous Substance Mitigation Act, U.C.A. §19-6-301 et. seq.; (xii) the Utah Underground Storage Tank Act, §19-6-401 et. seq.; and/or (xiii) any amendments to such enumerated statutes or acts; and

(b) any other hazardous or toxic substance, material, chemical, waste, contaminant or pollutant identified as hazardous or toxic or regulated, under any other applicable federal, State or local environmental laws, including, without limitation, friable

asbestos, polychlorinated biphenyl ("PCBs"), petroleum, natural gas and synthetic fuel products and by-products.

24. LAND SURVEYOR: One who is duly registered with the State of Utah Division of Occupational and Professional Licensing to perform land surveying within the State.
25. LAW: Any applicable City, County, State, or Federal statutes or regulations governing anything relating to the Work embodied in the Agreement.
26. MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES (MUTCD): MUTCD is published by the Federal Highways Administration and the United States Department of Transportation.
27. MATERIALS: The term "Materials" when used herein shall include supplies items, certain processes, types of machinery and equipment required or used in the Work.
28. NINETY PERCENT (90%) BOND RELEASE: The point at which all work, including punch list work, is complete in accordance with the Agreement and these Standard Specifications and, if applicable, the drawings for the project work, and accepted by the City.
29. PAVEMENT: The uppermost layer of bituminous or Portland-cement concrete material placed on the traveled way or shoulders for a riding surface, whether rigid or flexible in composition. This term is used interchangeably with "surfacing."
30. PROJECT ACCEPTANCE DATE (FINAL BOND RELEASE): The date specified in writing by the Engineer when all work, including punch list work, is complete and accepted by the City.
31. PROJECT MANUAL: The bound document package prepared by the Developer for bidding and constructing the Project.
32. PUBLIC UTILITY: Any gas, electricity, water, telephone, cable television, or telecommunications facility or sewer facility lawfully installed or located in a public way.
33. PUBLIC WAY: This term is used interchangeably with "Right-Of-Way."
34. REFERENCE SPECIFICATIONS: Those bulletins, standards, rules, methods of analysis or test codes and specifications of other agencies, engineering societies, or industrial associations referred to in the Agreement. These refer to the latest edition, including amendments in effect and published at the time of advertising the project for bid or issuing the permit, unless specifically referred to by edition, volume or date.
35. RIGHT-OF-WAY: Means and includes all public rights-of-way and access easements for the benefit of the City, footpaths, walkways and sidewalks, streets, roads, highways, alleys, and water or drainage ways. It does not, however, include utility easements not within Public Ways of the City.
36. SHOP DRAWINGS: Drawings, diagrams, illustrations, schedules, brochures, standards performance charts, instructions, or other information prepared by or for the Developer

and submitted to the City to illustrate what materials, equipment or work is to be performed for any portion of the Agreement.

37. SPECIFICATIONS: Those portions of the Agreement consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work and certain administrative details applicable thereto.
38. STANDARD DETAILS OR PLANS: The illustrative and extended treatment of or attention to particular items which accompany the Standard Specifications and Details for Municipal Construction.
39. STREET: The entire width between the boundary lines of the road or way which is owned, maintained and open to the use of the public for use as a thoroughfare, or which is the principal means of access to abutting property. The entire width of every way defined as a public street or highway by the laws of this City or State.
40. STOP WORK ORDER: A directive issued by the Engineer to cease any further construction, excavation, or occupation within the Public Way. All activities by the contractor are to be made safe and passable by vehicles and pedestrians upon receipt of this order.
41. SUBCONTRACTOR: The individual, firm, partnership or corporation to whom the Developer's contractor subcontracts any part of the Work covered by the Agreement.
42. SUBGRADE: That portion of the roadbed surface which has been prepared, as specified, and upon which a layer of specified roadbed material or base, or subsurfacing, or pavement is to be placed.
43. SUPPLEMENTAL SPECIFICATIONS: Those specifications adopted after the Specifications and Standards, which generally involve alterations to existing construction items new construction items, or substantial changes to the Standard Specifications.
44. SURFACING: The uppermost layer of material placed on the traveled way or shoulders, and is usually of asphalt or concrete. This term is used interchangeably with "pavement."
45. TRAFFIC CONTROL DEVICES: Fixed or portable signs, signals, street lights, barricades, guard rails, pavement markings, channelization and other equipment or materials used for the purpose of regulating, warning and guiding pedestrian and vehicular traffic. All devices, to include placement of devices, shall conform with the most current edition of the MUTCD.
46. TRAVELED WAY: That portion of the roadway intended for the movement of vehicles.
47. WORK: The term "Work" means the construction and services required by contract, or where there is no contract, labor and materials comprising the project and includes all labor, materials, equipment and services provided or to be provided by the Developer to fulfill the Developer's obligations to construct the project.
48. WORKMANSHIP: The level of quality of work accomplished on the Project through:

1. The Developers maintenance of performance control and supervision over contractors, suppliers, manufacturers, products, services, and site conditions to produce work in accordance with Contract Documents.
 2. Compliance with industry standards except when more restrictive tolerances or specified requirements indicate more rigid standards or more precise workmanship.
 3. Provide suitable qualified personnel to produce specified quality.
- C. Revisions of Standards and Specifications: Technical Specifications produced by industrial or trade associations which are referred to in this document (ASTM, AASHTO, ANSI, AWWA, IES, etc.) are those Specifications as they appeared at the time the Agreement is signed. In the event a specific technical standard or specification is revised or renumbered by the association preparing the standards, this document shall incorporate those changes as well, unless specifically referred to herein by edition, volume, or date.
- D. Pronouns and Plurals: Whenever the context may require, any pronoun used herein shall include the corresponding masculine, feminine or neuter forms and the singular form of nouns, pronouns and verbs shall include the plural and vice versa. Each of the foregoing genders and plurals is understood to refer to a corporation, partnership or other legal entity when the context so requires.

PART 2.00 CONTROL OF THE WORK

2.01 AUTHORITY OF THE ENGINEER

The Engineer shall decide all questions which may arise as to the quality or acceptability of materials furnished, the Work performed, the rate of progress, traffic control, questions which may arise as to the interpretation of the Agreement, and all questions as to the acceptable fulfillment of the Agreement on the part of the Developer and regarding compensation.

2.02 CONFORMITY WITH AGREEMENT, ALLOWABLE DEVIATIONS AND INCIDENTAL WORK

- A. Work and materials shall conform to the lines, grades, dimensions and material requirements, including tolerances, shown in the Agreement and specifications. Although measurements, sampling and testing may be considered evidence as to such conformity, the Engineer shall be the sole judge of whether the Work or materials deviate from the Agreement and Engineer's decision as to any allowable deviations therefrom shall be final and binding on Developer. Deviation from approved Documents will be approved in a signed writing by the Engineer.
- B. All minor details of work which are not shown in the Agreement, but are clearly necessary for the proper completion of the Work, shall be considered as incidental, and as being a part of and included with the Work, and no compensation shall be allowed the Developer for the performance thereof.

2.03 COORDINATION AND INTERPRETATION OF DRAWINGS, GENERAL CONDITIONS, SPECIFICATIONS AND SPECIAL PROVISIONS

- A. In the case of conflict in the documents making up the Agreement, the bonds or other surety documents, or the specifications, then the documents shall govern in the following order:

- 1st---City Approved Supplemental Agreements
- 2nd--The Agreement
- 3rd---City Approved Addenda to the Drawings and\or Specifications
- 4th---City Specifications and Standard Drawings
- 5th---General Conditions
- 6th---City Approved Drawings

- B. Should it appear that the Work to be done or any of the matters relative thereto are not sufficiently detailed or explained in the Agreement, the Developer may request that the Engineer provide further explanations.
- C. In the event of any discrepancy between the measured dimensions on any drawing and the written dimensions shown thereon, the written dimensions shall be taken as correct. Detail drawings for each trade or item of work shall prevail over general drawings.
- D. Any part of the Work which is not mentioned in the specifications, but is shown on the drawings, shall be furnished and installed by Developer as if fully described in the specifications.

2.04 SUPERINTENDENCE

- A. When the Developer is comprised of two (2) or more persons, firms, partnerships or corporations functioning on a joint-venture or partnership basis, said Developer, before starting work, shall designate in writing to the Engineer the name of a representative who shall have the authority to act for and bind both firms of the Contractor at all times while Work is in progress.
- B. Whenever the Developer's authorized representative designated in the construction contract is not present at the work site, Engineer's directions to the superintendent, foreman or employee who has charge of the particular part of the work addressed by the Engineer shall have the same effect as though the Engineer gave the direction to the Developer's Representative.
- C. When work is not in progress and during periods when work is suspended, the Developer shall make arrangements acceptable to the Engineer any emergency work which may be required at the insistence of the Developer or the Engineer.

2.05 CONSTRUCTION STAKING

Developer will be responsible at its sole cost for all construction staking. Developer will insure that all construction is accomplished in accordance with the details, lines, grades, and elevations provided by the drawings. The City reserves the right to check and verify all staking.

2.06 INSPECTION

- A. All work shall be inspected by a City authorized Inspector. Whenever any portion of these Specifications and Agreement are violated, the Engineer, by written notice to the Developer, may order that portion of construction which was violated to cease until the violation is corrected. Developer shall promptly correct all such deficiencies ordered by the Engineer but may object and explain its reasons therefore. If deficiencies are not corrected, the City may require performance by the Developer's Surety. Under no circumstances shall the presence, observations or testing by the City's authorized representative be construed as approval or

acceptance or waiver of the Developer's failure or refusal to fully comply with the requirements of the Project plans and specifications.

- B. The Engineer may assign such assistants as he may deem necessary to inspect the materials to be furnished and the Project Work to be done and to see that the Work strictly conforms to the Agreement herein set forth.
- C. The Developer shall, when it reasonably can, make application for review of the Work by an inspector at least forty-eight (48) hours before the inspector's services are required.
- D. Any Work not in accordance with the Agreement of which the City gives the Developer notice before the final bond release shall be promptly corrected at Developer's sole expense upon notification by the Engineer. Inspection by the Engineer shall not relieve the Developer of its responsibility to furnish materials and workmanship in accordance with the Agreement. Failure on the part of the Engineer to discover and condemn or reject materials or work shall not be construed to imply acceptance of the same should their non-compliance become evident before Project Acceptance. It is expressly understood that nothing in this paragraph waives any of the City's rights under the guarantee provision of the Agreement.
- E. The inspectors shall at all times be free to perform their lawful duties, and any assault, battery, threat of harm, use of force to delay, impede or prevent the inspector from performing his lawful duties, or harassment of any inspector on the part of the Developer or Developer's agents or employees shall be sufficient reason for the City to terminate this Agreement, which the Engineer may recommend to the Mayor, and for the City. At the Engineer's request, the Developer shall remove from the Project any employee making such threats or attempting such intimidation.
- F. Any construction work done by the Developer within a City, County or State road or street system shall conform to the applicable State, County and City requirements for such work.

2.07 AUTHORITY AND DUTIES OF INSPECTORS

- A. Inspectors shall be permitted to inspect all work done and all material furnished. Such inspection may extend to all or any part of the Work and to the preparation, fabrication, or manufacture of the materials to be used. The inspector is not authorized to revoke, alter, or waive any requirements of the Agreement. The inspector is authorized to call the attention of the Developer to any failure of the Work or materials to conform to the Agreement. The inspector shall have authority to reject materials and/or suspend the Work until the question at issue can be referred to and decided by the Engineer.
- B. The inspector shall in no case act or be considered as foreman or perform other duties for the Developer nor interfere with the management of the Work by the latter. Any advice which the Inspector may give the Developer other than as set forth in Paragraph A above shall not be construed as binding on the Engineer or the City in any way, or in any way releasing the Developer from fulfilling all of the terms of the Agreement.
- C. If work is to be suspended, the inspector shall issue a written order from the Engineer giving the reason for shutting down the Work. After placing the order in the hands of the person in charge, any work done thereafter will not be accepted.

2.08 AGREEMENT DOCUMENTS AT THE SITE

When work is in progress, the Developer shall maintain at the site one copy of the Agreement, including change orders and the reviewed shop drawings, in good order and marked to record all authorized changes made during construction. These shall be available to the Engineer at all times.

2.09 REMOVAL OF DEFECTIVE AND UNAUTHORIZED WORK

- A. All work which the Engineer deems defective or deficient shall be remedied or removed and replaced by the Developer in a manner acceptable to City, and no compensation will be allowed for such correction.
- B. Upon failure of the Developer to promptly remove defective or unauthorized work following notification of non-compliance by Engineer, Engineer shall have authority to cause defective work to be remedied or removed and replaced and unauthorized work to be removed, and the Developer shall promptly pay the City for any costs or expenses reasonably incurred by the City for such work. If payment is not received within 30 days of notice, the City may make demand upon the Developer's bond or surety.

2.10 EQUIPMENT

Equipment not suitable to produce the quality of work required will not be permitted to operate at the Work site. The Developer shall provide adequate and suitable equipment to meet the work requirements, and when ordered by the Engineer, shall remove unsuitable equipment from the Work site. No equipment or machinery shall be operated upon or over paved streets, sidewalks, landscaped areas, paved areas or prepared roadway shoulders in getting to, from, or in working on a project which, in the opinion of the Engineer, may be injurious to said areas.

2.11 WORKING HOURS

Construction work shall not be performed on the project except during the hours between 7:00 A.M. - 7:00 P.M., Monday through Saturday, unless otherwise approved by the Engineer.

2.12 ASSISTANCE BY DEVELOPER

- A. The Developer, at its sole cost, shall furnish the Engineer with any labor required and necessary for the thorough inspection, or removing of defective materials, or for thorough examination into any of the Work, or for any purpose required in the discharge of their respective duties.
- B. At the request of the Engineer, the Developer at any time before acceptance of the Work, shall remove or uncover such portions of the finished work as may be directed. After examination, the Developer shall restore said portions of the Work to the standard required by the Agreement.

2.13 COORDINATION WITH RELATED WORK

- A. Developer may at times find its work adjacent to and possibly interfacing with the Work of other Developers or contractors who are under separate Agreement with the City or other agencies. Every effort must be made to coordinate the Work to leave a complete and finished work at the completion of the Agreement. Such work and coordination shall be without cost to the City.

- B. If two or more Developers under City Agreements with adjoining projects are unable to join their work in a manner acceptable to all, the Engineer will decide which Developer or Developers shall cease work temporarily and which shall continue. The City also reserves the right to back charge any or all Developers for all costs incurred by the City or other Developers which are the result of the Developers not properly coordinating their work.

2.14 ACCEPTANCE OF PRIOR WORK

Developer warrants that its work under the Agreement will be properly executed in relation to any prior work with which Developer's work must be compatible or integrated. Developer shall carefully inspect such prior work and notify the Engineer in writing of any defects, improper workmanship or materials or other conditions that would impair the satisfactory execution and permanency of the Work. The Engineer may instruct the Developer that no further work shall be executed until all such defects or conditions have been corrected or agreement reached regarding defects which may develop due to the defects. Further, failure of the Developer to so inspect and report shall constitute an acceptance by the Developer of the prior work as fit and proper to receive or be integrated with Developer's work, and Developer shall make such changes, at its cost, as are necessary to integrate the Work required by this Agreement.

2.15 WORK PER MANUFACTURER'S DIRECTIONS

All manufactured articles, materials or equipment, shall be applied, installed, connected, erected, used, cleaned and conditioned according to the manufacturer's written directions, unless specified in writing to the contrary by the Engineer.

2.16 CHARACTER OF SUBCONTRACTORS AND WORKMEN

Developer shall employ suitable and competent workers for every kind of work. If any contractor or person employed by the Developer shall reasonably appear to the Engineer to be incompetent or to act in a disorderly manner, or in a manner which violates the law, or reasonably puts at risk the health, safety or the Work, or property of others, then at the Engineer's request, the Developer shall immediately remove such person(s) from the Project Work and such person(s) shall not be employed again in the Work until an agreement thereto has been reached by the Engineer and the Developer..

2.17 CLEANUP AND SHUTDOWN

The Developer shall keep the construction area reasonably clean at all times and shall remove accumulated debris from the Project work site each day. At the end of each discrete portion of the Work, Developer shall remove all debris, excess materials, tools, equipment, temporary buildings and barricades, etc., from the construction site as can reasonably be done, and shall clean all areas used in the performance of Work. In the event Developer fails to so clean within a reasonable time, the City may, at its option and upon notice to the Developer, clean the Construction site. In such event, Developer shall pay the City the costs of such cleanup promptly upon the receipt of bills therefore, or the City may deduct the costs from any monies due or to become due to the Developer. No trash, rubbish or debris shall be deposited in any stream or body of water or in any street or alley or upon any private property except by written consent of the City, and, where private property of third parties is involved, with the written consent of the private property owner(s) or their lawful representatives. In the event that the owner of such property is other than the City, the Engineer shall be provided with a copy of the written agreement between the Developer or it's Contractor and the private property owner allowing the use of the private property, all of which shall be at the Developer's sole expense.

2.18 LIMITATION OF ENGINEER'S RESPONSIBILITIES

- A. Neither the Engineer, his designee, nor inspectors, etc. shall act or be considered as the Developer's , contractors' or suppliers' superintendent or foreman or be a part of work force in any manner or form.
- B. Whenever in the Agreement the terms "as ordered", "as directed", "as required", "as allowed", or terms of like effect or import are used, or the adjectives "reasonable", "suitable", "acceptable", "proper" or "satisfactory" or adjectives of like effect or import are used to describe a requirement, direction, review or judgement, will be solely to evaluate the Work for compliance with the Agreement (unless there is a specific statement indicating otherwise). The use of any such term or adjective never indicates that Engineer shall have authority to undertake responsibility contrary to the provisions of paragraphs C or D below.
- C. Engineer will not be responsible for the means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto employed by Developer or its contractor, and Engineer is not responsible for Developer's failure to perform the Work in accordance with the Agreement.
- D. Engineer is not responsible for the acts or omissions of Developer or of any contractor, or of the agents or employees of any Developer or contractor, of any persons at the site or otherwise performing any of the Work.

2.19 FOLLOW LAWS, HAZARDOUS MATERIALS

Developer, at its expense, shall comply with all applicable laws, regulations, rules and lawful orders of federal, State or City officials, including, without limitation, those relating to health, safety, noise, environmental protection, waste disposal and water and air quality, and furnish satisfactory evidence of such compliance to the City upon request. Should any release, discharge, leakage, spillage, emission or pollution of any hazardous material occur upon or arise on the City's Right-of-Way or any other property as a result of Construction activities of Developer or its agents or contractors, arising from or relating to the Work, Developer, at its expense, shall be obligated to clean all property affected thereby, whether owned or controlled by the City or any third persons, to the satisfaction of the City (insofar as the property is owned or controlled by the City) and any federal, State or local government having jurisdiction in the matter. In the event Developer fails to clean the Work site or area affected by the Contractor's release within a reasonable time to the City's reasonable satisfaction, the City may, at its option, clean any rights of way or other property owned or controlled by the City; if the City elects to do so, Developer shall pay the City the costs of such cleanup promptly upon the receipt of bills therefor. Developer agrees to release, protect, indemnify, defend and hold the City harmless from and against all Loss, liability, cost and expense (including, without limitation, any fines, penalties, judgments, litigation costs and reasonable attorney fees) arising from Developer' breach of this section, or as a result of any release, discharge, leakage, spillage or emission of Hazardous Materials or any other pollution, arising as a result of the work to be done by or for Developer hereunder during the Construction period, regardless of whether such Loss, liability, cost or expense arises during the time this Agreement is in effect or thereafter.

PART 3.00 CONTROL OF MATERIALS

3.01 SOURCE OF SUPPLY AND QUALITY OF MATERIAL

The Developer shall furnish all materials required to complete the Work except materials that are designated in the Special Provisions to be furnished by the City or in accordance with these General Conditions. Only materials conforming to the requirements of the Agreement shall be incorporated in the Work. The materials furnished and used shall be new, except as may be otherwise provided in this Agreement. The materials shall be manufactured, handled and used in a workmanlike manner to insure completed work in accordance with the Agreement. The Developer shall furnish without charge such samples as may be required. Inspection and tests will be made by the Engineer or his designated representative. Inspections and tests made at any point other than the point of incorporation in the Work in no way shall be considered as a guarantee of acceptance of such material, or of a continued acceptance of material presumed to be similar to that upon which such inspections and test have been made.

3.02 STORAGE OF MATERIALS

- A. All work or storage of materials shall occur within the construction area as shown on the drawings. Route of delivery of large or bulky materials and equipment shall be as specified herein, or as approved by the Engineer. If additional storage area is required, it shall be the Developer's responsibility to obtain it. If private property is used, Developer will provide a copy of the written permission to the Engineer.
- B. Materials and equipment shall be stored so as to insure the preservation of their quality and fitness for the Work. Stored equipment and materials shall be located so as to facilitate inspection.

3.03 DEFECTIVE MATERIALS

All materials which the Engineer has determined does not conform to the requirements of the Agreement will be rejected, whether or not in place. The material shall be removed immediately from the site of the Work unless otherwise permitted by the Engineer. No rejected material shall be used in the Work unless approval in writing has been given by the Engineer. Upon failure of the Developer to comply promptly with any order of the Engineer made under the provisions of this paragraph, the Engineer shall have the authority to cause the removal and replacement of rejected material.

3.04 CERTIFICATES OF COMPLIANCE

- A. The Engineer may permit the use of certain materials or assemblies prior to sampling and testing if accompanied with a certificate of compliance stating that materials involved comply in all respects with the requirements of the Agreement and City specifications. The certificate shall be signed by the manufacturer of the materials or the manufacturer of the assembled material. If requested by the Engineer or the City's inspector, the certificate of compliance must be furnished with each line of material delivered to the Work and the line so certified must be clearly identified in the certificate. All materials used on the basis of a certificate of compliance may be tested at any time. The fact that material is used on the basis of a certificate of compliance shall not release the Developer from the responsibility of incorporating the material in the Work which conforms to requirements of the Agreement and at any place that it isn't uniform, shall be removed and replaced at the Developer's expense. The City reserves the right to refuse to permit the use of material on the basis of a certificate of compliance. The form of a certificate of compliance and its disposition shall be as directed by the Engineer.

3.05 TESTING MATERIAL

- A. All testing for control and acceptance will be the responsibility of the Developer and shall be performed at the Developer's expense.
- B. Any retesting of work or materials rejected by the City, after the initial testing, shall be at Developer's expense.

3.06 USE OF CITY WATER SUPPLY

Developers desiring to use water from City hydrants shall comply with City ordinances and the rules of the Department of Public Utilities and shall under no circumstance use water from the City waterworks system, fire hydrants or other source without first contacting and making proper arrangements with and payments to the City.

- 1) In order to use the City water supply, Developers shall make arrangements to obtain a meter, and to pay all necessary charges.
- 2) Developers will be held responsible for any damage caused by Developer to fire hydrants, or to the City water by contamination, or to the City waterworks system.

3.07 PUBLIC UTILITIES

Developer shall provide and pay for all utilities and City Water used in the Work or necessary to complete the Work.

3.08 CASTING, ETC., TO REMAIN THE PROPERTY OF CITY

Unless the Engineer otherwise agrees in writing, all castings, grates, special fittings, hydrants, valves, valve boxes, pipe, etc., removed from the Public Way shall remain the property of City and must be delivered to the City at such location and when the Engineer may reasonably direct.

PART 4.00 LEGAL RELATIONS AND RESPONSIBILITIES TO THE PUBLIC

4.01 LAWS TO BE OBSERVED

The Developer shall keep himself fully informed of all applicable City, State and Federal laws and all municipal ordinances and regulations of the City which in any manner affect those engaged or employed in the Work or the materials used in the Work, or which in any way affect the conduct of the Work, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. Developer shall at all times observe and comply with and shall cause all Developer's agents and employees to observe and comply with all such existing laws, ordinances, regulations, orders and decrees of bodies or tribunals having any jurisdiction or authority over the Work.

4.02 LICENSES AND PERMITS REQUIRED

All paving, street construction, and utility installation within City rights-of-ways shall be performed by a contractor licensed and bonded in the City. A permit shall be secured by the Developer or its contractor from the Public Works Department **and approved by the Engineer** at least 48 hours before initiating construction. Sandy City's Inspector shall be notified by the Developer at least two working days before the planned construction is to commence and also before starting work whenever construction is delayed

for any reason. The Sandy City Police Department and the Sandy City Fire Department must be notified not less than 48 hours in advance of the intended closure of any street or public way.

4.03 PATENTS AND TRADEMARKS

Prior to beginning work, the Developer shall inform the Engineer of any work it intends to perform which is covered by the Standard Specifications and Details for Municipal Construction on which Developer expects to use equipment, materials, devices, or processes which require a patent or trademark license. Developer shall not perform any work covered by the Standard Specifications and Details for Municipal Construction on which Developer expects to use equipment, materials, devices, or processes which violates any patents or trademarks, or which Developer believes or has reason to believe violates any patents or trademarks.

4.04 PUBLIC CONVENIENCE AND SAFETY

- A. Developer shall so conduct its operations as to cause the least obstruction and inconvenience to vehicular or pedestrian traffic as reasonably possible. Unless otherwise designated in the plans and/or Special Provisions, all vehicular and pedestrian traffic shall be permitted to pass through the Work and shall be controlled at Developer's expense pursuant to City law.
- B. The Developer shall meet all requirements set forth in the current edition of the Manual on Uniform Traffic Control Devices (MUTCD). The Developer shall develop and submit a traffic control plan to City Transportation Engineer for review and approval at least two working days prior to work.
- C. Developer shall not load or permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Developer subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

4.05 RESPONSIBILITY FOR DAMAGE

The City, its officers, employees and agents, shall not be answerable or accountable in any manner for any loss or damage that may happen to the Work or any part thereof; for any material or equipment used in performing the Work; for injury to property and /or person or persons; and/or for damage to property not caused by the City.

4.06 DEVELOPER'S RESPONSIBILITY FOR WORK

Except as provided above, until final bond release, Developer shall have the charge and care for the Work and shall bear the risk of injury or damage to any part thereof by any acts of God or the elements or from any other cause. Developer shall rebuild, repair and restore, and make good all injuries or damages to any portion of the Work occasioned by any of the above causes before final bond release and shall bear the expense thereof.

4.07 SAFETY PROGRAM

The Developer shall institute a safety program at the start of construction to minimize accidents. Such program shall continue to the end of the job and conform to the latest general safety orders of the State Industrial Commission, as contained in the then current The State Occupational Safety and Health Act. The manual of Accident Prevention in Construction may be used as a guideline for safety practices.

4.08 DEVELOPER NOT AN AGENT OF CITY

The Developer, its employees, subcontractors, and agents shall follow the State and local laws and regulations, and shall comply with the lawful directions of the Engineer in respect to conformity to the laws and ordinances of the State of Utah and the City as well as the City's Standards and Specifications. The Developer, its agents or contractors, are independent contractors and not agents, partners or joint venturers with the City. The liability of the Developer for all damages to persons or to public or private property, arising from the Developer's execution of the Work, shall not be diminished because of such general supervision.

4.09 INSPECTION CONSTITUTE NO WAIVER OF AGREEMENT PROVISIONS.

No inspection by the Engineer or an inspector, or acceptance of part or all of the Work by the City or its agents shall operate as a waiver of any provision of the Agreement.

4.10 INDEMNIFICATION AND INSURANCE REQUIREMENTS

The Developer shall agree to indemnify and hold the City harmless from any and all claims, losses, damages, lawsuits or costs of any type (including attorney's fees and costs) arising from the Developer's activities (or the activities of any employee, contractor, subcontractor, or other agent) under the Agreement. The Developer shall also be required to purchase and maintain specified amounts of insurance coverages in such forms and amounts as determined by the City and shall furnish written proof of such coverages in a form acceptable to the City.

4.11 GUARANTEE

- A. All work shall be and is guaranteed by the Developer for a period of one (1) year from and after the date the City gives notice of the 90% bond release. A longer guaranty period may be required by the Engineer under special circumstances, such as when the Engineer determines that some part of the Work is reasonably likely to fail within one year of the 90% bond release and where such determination is difficult to make within the one-year period.
- B. If within said guarantee period repairs or corrections become necessary due to failure in the guaranteed work, the Developer shall promptly upon actual notice or receipt of written notice from the City, and without expense to the City; (1) place in satisfactory condition in every particular all guaranteed work and correct all defects therein; and (2) make good all damages to the facilities or equipment, which are the result of the failed Work, except when such failures or defects are the result of acts of God, use or misuse by the City or general public, or due to vandalism.
- C. All such rework by the Developer under this guaranty clause shall be guaranteed by the Developer until such time as the City issues the final bond release.
- D. If the Developer, after notice, fails within fifteen (15) days to proceed to comply with the terms of this guarantee, the City may have the defects corrected, and the Developer and the surety for the Developer or the Developer's contractor doing the work, or both, shall be liable for all of City's expense incurred. In cases of an emergency nature where, in the opinion of the Engineer, delays in repair could cause serious loss or damage, temporary repairs may be made by the City without notice being given to the Developer and the Developer shall pay for the cost thereof, or at the discretion of the Engineer, the City may make demand upon the Developers bond or surety.

4.12 DISPOSAL OF MATERIAL

The Developer shall make its own arrangements for properly disposing of all materials in approved landfills required to be removed from the site and pay all costs involved.

4.13 PROTECTION OF EXISTING UTILITIES AND PROPERTY

The Developer shall protect from damage or injury trees, shrubbery, pole lines, fences, signs, markers, monuments, buildings, structures, conduits, pipe lines under or above ground, sewer lines, water lines, canals, ditches, storm drains, street lights and wiring, all street facilities, and any other improvements or facilities within or adjacent to the Project which are not to be removed. The Developer shall provide and install suitable safeguards to protect such from injury or damage. If they are injured or damaged by reason of the Developer's operations, they shall be replaced or restored equal or better than previously existing at the Developer's expense. The Engineer may make or cause to be made such temporary repairs as are necessary to restore to service any damaged facility. The cost of such repairs shall be borne by the Developer and, if paid by the City, the Developer shall pay to the City the amount paid by the City within 30 days after receiving a written statement setting out the work performed by the City on Developer's behalf as set out herein. If payment is not received within the 30 days the City may make demand upon the Developers bond or surety.

4.14 LOCATING EXISTING UTILITIES

- A. Any information shown or indicated by the City or its agents or employees in the Agreement with respect to the location of existing utilities at or contiguous to the site is based on information furnished to City by the owners of such utilities and is provided as a convenience to the Developer and its contractor(s). The Developer or its subcontractors should independently verify all such information.
- B. The Developer shall have full responsibility for locating all utilities in the work area, including any Public Utility location indicated by the City's representative whether orally or as indicated in plans or other documents provided to the Developer or its contractor. The Developer shall be responsible for coordination of the Work with the owners of such utilities during construction, for the safety and protection thereof, and for repairing any damage thereto resulting from the Work, the cost of all of which, shall be borne by the Developer.

4.15 SEVERABILITY CLAUSE

Whenever possible, each provision of these general conditions shall be interpreted to be valid under applicable law. In the event that any condition, covenant or other provision herein contained is held to be invalid or void by any court of competent jurisdiction, the same shall be deemed severable from the remainder of these regulations and shall in no way affect any other covenant or condition herein contained if it can reasonably be done. If such condition, covenant or other provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

PART 5.00 PROSECUTION AND PROGRESS

5.01 CONTRACTORS

- A. The Developer shall give personal attention to the fulfillment of the Agreement and shall keep the Work under control. All persons engaged in the Work of construction shall be considered controlled by Developer and Developer will be held responsible for their work, which shall be subject to all provisions of the Agreement.
- B. The Developer agrees to be fully responsible to the City for the acts and omissions of said contractors and of persons either directly or indirectly employed by them in the same way as Developer is for the acts and omissions of Developer's own employees.
- C. No agency or company which is or has been under contract to the City to provide designs, design reviews, soil testing, materials testing, surveying, and/or any other such functions associated with the design phase of the project shall be used as a contractor by Developer.
- D. Nothing contained in this Agreement shall create any contractual relations between any contractor and the City.

5.02 PUNCH LIST WORK

- A. Within a reasonable time after final inspection by the Engineer and Developer, the Engineer shall deliver to the Developer a punch list of items of remaining work to be completed before the 90% bond release will be issued.
- B. The Developer shall complete all items on the punch list, within thirty (30) calendar days, unless exemptions of specific items are granted by the Engineer in writing.
- C. If all items contained in the punch list are not complete within 30 days, the Engineer may require an additional inspection and an updated punch list will be generated and delivered to the developer.
- D. The City reserves the right to retain or not release any part of the bond or other security pledged by the Developer, or require the extension of any letter of credit or other surety, to guarantee the satisfactory completion of the Work until all punch list items are complete.
- E. The Developer shall continue to carry the insurance coverage required under Articles 4.10 and 4.11 of these General Conditions hereof in full force and effect until all punch list items have been completed and final (100%) bond release authorized by Engineer.

5.03 TEMPORARY SUSPENSION OF WORK

- A. The City shall have the authority to suspend the Work wholly or in part for such period as City may deem necessary due to unsuitable weather or to such other conditions City reasonably considers unfavorable for suitable prosecution of the Work in the interest of the public health, safety and welfare, and for such time as City may deem necessary due to the failure on the part of the Developer to carry out orders given by the Engineer or his designee, or perform any provision of the Agreement. The Developer shall immediately comply with the written order of the City to suspend the Work wholly or in part and there shall be no claim against or liability on the part of City for such suspension. The suspended work shall be resumed when the Engineer notifies the Developer that conditions are favorable and methods are corrected as ordered or approved in writing by the Engineer.

- B. In the event the suspension of work is ordered, the Developer, at its expense, shall do all the Work necessary to provide a safe and secure work site. If pedestrian and/or vehicular access is required through the construction site, a smooth and unobstructed passageway shall be provided for use by the public during the period of such suspension as provided in Articles 4.04 and 4.06 hereof, and as specified in the Special Provisions. In the event the Developer fails to perform this work, the City may perform such work and the Developer shall pay to the City the amount thus paid by the City within 30 days after receiving a written statement setting out the work performed by the City on Developer's behalf as set out herein. If the payment is not received within 30 days, the City may make demand upon the Developer's bond or surety.

5.04 SANITARY PROVISIONS

During the entire progress of the Work, the Developer shall provide and maintain proper toilet facilities for all employees. Sanitary facilities shall be provided by the Developer at proper intervals along the street or on the Project site.

PART 6.00 DISPUTES AND APPEALS

6.01 APPEALS TO THE DEPARTMENT HEAD

- A. The Developer may not bring a claim against the City arising from a decision of the Engineer before completing the following appeal process.
- B. The Developer may appeal the decision of the Engineer by filing a written protest with the Director of the City Public Works Department administering the subject work. The appeal shall contain the following information:
- (1) The Developer's name, mailing address and daytime telephone number, the signature of an authorized officer of the Developer and the date the appeal is signed; and
 - (2) The relief sought, a statement of facts, a recitation of the reasons, and any legal authority available to Developer in support of the protest sufficient to permit review.
- C. The City department head may designate another individual to assist in reviewing the matter, which assistance may include finding facts, analyzing the protest, and making recommendations to the Public Works Department Director.
- D. The Public Works Department Director or his designated representative may request additional information from the protesting party or from other persons which are reasonably deemed needed to make an informed determination. The Developer shall provide all information requested by the department head or his designee reasonably needed to decide the protest except information which is protected from disclosure by law.
- E. The Public Works Department Director or his designee shall review and decide protests, and shall issue a written determination to the Developer.

END OF SECTION